

House Study Bill 705

SENATE/HOUSE FILE _____
BY (PROPOSED DEPARTMENT OF
NATURAL RESOURCES BILL)

Passed Senate, Date _____ Passed House, Date _____
Vote: Ayes _____ Nays _____ Vote: Ayes _____ Nays _____
Approved _____

A BILL FOR

1 An Act regulating persons who transport, handle, store, or apply
2 manure.
3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:
4 TLSB 5425DP 82
5 da/rj/8

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1 1 Section 1. Section 459.102, Code 2007, is amended by
1 2 adding the following new subsection:
1 3 NEW SUBSECTION. 8A. "Business day" means a calendar day
1 4 except Saturday, Sunday, or a holiday specified in section
1 5 1C.2.
1 6 Sec. 2. Section 459.102, subsections 11 and 17, Code 2007,
1 7 are amended to read as follows:
1 8 11. "Commercial manure service" means a sole proprietor or
1 9 business association as defined in section 202B.102, engaged
1 10 in the business of transporting, handling, storing, or
1 11 applying manure for ~~a fee.~~ compensation, but does not include
1 12 a person who only receives compensation for the manure
1 13 originating from that person's own animal feeding operation or
1 14 for applying manure originating from that person's own animal
1 15 feeding operation.
1 16 17. a. "Confinement site manure applicator" means a
1 17 person, other than a commercial manure service or a commercial
1 18 manure service representative, who transports, handles, or
1 19 applies manure on to land if the manure originates from a
1 20 manure storage confinement feeding operation structure.
1 21 b. "Confinement site manure applicator" includes a person
1 22 who conducts any activity involved in transferring manure from
1 23 a confinement feeding operation structure to its application
1 24 on land but does not include a person who only transfers
1 25 manure within a confinement feeding operation structure,
1 26 transfers manure in an exclusively dry form between
1 27 confinement feeding operation structures at a confinement
1 28 feeding operation, or transfers manure inside below-ground
1 29 piping between such confinement feeding operation structures.
1 30 Sec. 3. Section 459.315, subsection 2, Code 2007, is
1 31 amended to read as follows:
1 32 2. a. A person required to be certified as a commercial
1 33 manure service representative must be certified by the
1 34 department each year. The certification expires on March 1 of
1 35 each year. The person shall be certified after completing an
2 1 educational program which shall consist of ~~an~~ any of the
2 2 following:
2 3 (1) An examination required to be passed by the person or
2 4 three.
2 5 (2) At least two hours of continuing instructional courses
2 6 which the person must attend each year in lieu of passing the
2 7 examination. However, the department may require that the
2 8 person attend up to one additional hour of continuing
2 9 instructional courses each year.
2 10 b. A person required to be certified as a confinement site
2 11 manure applicator must be certified by the department ~~every~~
2 12 three years each year. However, if the person is exempt from
2 13 paying the certification fee because a family member has paid
2 14 a certification fee as provided in section 459.400, the
2 15 person's certification shall expire on the same date that the
2 16 paid family member's certification expires. A The
2 17 certification expires on March 1 of each year. The person
2 18 shall be certified after completing an educational program
2 19 which shall consist of an any of the following:

2 20 (1) An examination required to be passed by the person or
2 21 two.

2 22 (2) At least two hours of continuing instructional courses
2 23 which the person must attend each year in lieu of passing the
2 24 examination.

2 25 Sec. 4. Section 459.315, subsection 5, paragraph a,
2 26 subparagraph (2), unnumbered paragraph 1, Code 2007, is
2 27 amended to read as follows:

2 28 The person transports, handles, stores, or applies manure
2 29 for a period of ~~thirty~~ ten business days from the date of
2 30 initial employment as a commercial manure service
2 31 representative and all of the following apply:

2 32 Sec. 5. Section 459.315, subsection 5, paragraph a,
2 33 subparagraph (2), subparagraph subdivision (a), Code 2007, is
2 34 amended to read as follows:

2 35 (a) The person completes and submits a form as required by
3 1 the department documenting that the person is actively seeking
3 2 certification under this section.

3 3 Sec. 6. Section 459.315, subsection 5, paragraph b,
3 4 subparagraph (2), subparagraph subdivision (b), Code 2007, is
3 5 amended to read as follows:

3 6 (b) In sight or ~~hearing~~ immediate communication distance
3 7 of the supervised person.

3 8 Sec. 7. Section 459.315, subsection 5, Code 2007, is
3 9 amended by adding the following new paragraph:

3 10 NEW PARAGRAPH. c. This subsection shall not be construed
3 11 to exempt a person from being required to be certified as a
3 12 confinement site manure applicator merely because the person
3 13 is not required to be certified as a commercial manure service
3 14 representative.

3 15 Sec. 8. Section 459.400, subsection 1, paragraph d,
3 16 subparagraph (2), subparagraph subdivision (a), Code 2007, is
3 17 amended to read as follows:

3 18 (a) ~~The person is certified within one year from the date~~
3 19 ~~that a~~ A family member has been certified as a confinement
3 20 site manure applicator.

3 21 Sec. 9. CURRENT CERTIFICATIONS.

3 22 1. This Act shall not affect the duration of a three-year
3 23 certification issued by the department of natural resources to
3 24 a person as a confinement site manure applicator pursuant to
3 25 section 459.315 prior to the effective date of this Act, if
3 26 all of the following apply:

3 27 a. The certification is valid on the date immediately
3 28 prior to the effective date of this Act.

3 29 b. The person complies with the applicable requirements
3 30 provided in chapter 459, including section 459.315 as amended
3 31 by this Act.

3 32 2. The person's three-year certification shall remain
3 33 valid regardless of whether the person paid a certification
3 34 fee or was exempt from paying the certification fee as
3 35 provided in sections 459.315 and 459.400, as those sections
4 1 existed on the date immediately prior to the effective date of
4 2 this Act.

4 3 3. At the end of the duration of the person's
4 4 certification as a confinement site manure applicator as
4 5 provided in section 459.315 as that section existed on the
4 6 date immediately prior to the effective date of this Act, the
4 7 person's certification shall expire and the person shall only
4 8 be certified as a confinement site manure applicator on an
4 9 annual basis as provided in section 459.315, as amended by
4 10 this Act.

4 11 4. The department may adopt rules as necessary to
4 12 implement this section.

4 13 EXPLANATION

4 14 GENERAL. This bill provides for the licensure of a
4 15 commercial manure service (service), and the certification of
4 16 a commercial manure service representative (representative),
4 17 and a confinement site manure applicator (applicator) by the
4 18 department of natural resources.

4 19 Currently, a service is engaged in the business of
4 20 transporting, handling, storing, or applying manure for a fee.
4 21 A representative is involved as a manager or employee of the
4 22 service. An applicator is a person other than a service or
4 23 representative who applies manure on land if the manure
4 24 originates from a confinement feeding operation. A service
4 25 must be licensed and a representative or operator must be
4 26 certified by the department.

4 27 DEFINITIONS. The bill amends Code section 459.102 which in
4 28 part defines a service and operator. For the definition of a
4 29 service, the bill substitutes the term compensation for fee
4 30 and provides that a confinement site manure applicator is not

4 31 a person who only receives compensation for the manure
4 32 originating from that person's own animal feeding operation or
4 33 for applying manure originating from that person's own animal
4 34 feeding operation. The bill expands the definition of a
4 35 confinement site manure applicator to include a person who not
5 1 only applies but who may also transport or handle manure. The
5 2 bill further provides that a confinement site manure
5 3 applicator includes a person who is involved in transferring
5 4 manure from a confinement feeding operation structure, but not
5 5 a person who only: (1) transfers manure within a confinement
5 6 feeding operation structure, (2) transfers manure in an
5 7 exclusively dry form between confinement feeding operations at
5 8 a confinement feeding operation, or (3) transfers manure
5 9 inside below-ground piping between confinement feeding
5 10 operation structures.

5 11 CERTIFICATION. The bill amends Code section 459.315 to
5 12 provide an exemption from certification for a commercial
5 13 manure service representative who is seeking certification.
5 14 Under current law, a representative must be certified by the
5 15 department each year. The bill provides the certification
5 16 expires on March 1. The bill reduces the number of hours of
5 17 continuing instructional courses required to be completed each
5 18 year in order for a person to be certified as a commercial
5 19 manure service representative. The bill reduces the number
5 20 from three to two, but provides that the department may
5 21 require that persons attend up to one additional hour each
5 22 year.

5 23 The bill also amends certification requirements for
5 24 confinement site manure applicators. The bill changes the
5 25 duration of a certification from three years to one year, and
5 26 provides that the expiration date is March 1. The bill
5 27 provides that the new requirements do not affect the duration
5 28 of a three-year certification issued by the department prior
5 29 to the effective date of the bill. However, after the
5 30 person's three-year certification expires, the bill requires
5 31 that the person be certified on an annual basis.

5 32 UNCERTIFIED APPLICATION. The bill reduces from 30 calendar
5 33 days to 10 business days the time period in which an
5 34 uncertified commercial manure service representative may act
5 35 under the supervision of a certified representative, and
6 1 provides that the representative must complete and submit a
6 2 form for certification as required by the department.

6 3 Under current law, certain persons are not required to be
6 4 certified as a confinement site manure applicator, including a
6 5 person who is acting under the instructions and control of a
6 6 certified applicator who is physically present at the site
6 7 where the manure is located and is in sight or hearing
6 8 distance of the supervised person. The bill provides that the
6 9 person being supervised must be within the immediate
6 10 communication distance of the supervisor in lieu of hearing
6 11 distance. The bill also provides that a person is not exempt
6 12 from being certified as an applicator merely because the
6 13 person is not required to be certified as a representative.

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